



IN THE MATTER OF:

Complainant,

and

**CITY OF CHICAGO, DEPARTMENT OF
BUSINESS AND INFORMATION
SERVICES,
Respondent.**

Charge No.: 2000CA0365

EEOC No.: 21B992868

ALS No.: 11375

RECOMMENDED ORDER AND DECISION

On September 18, 2000, the Illinois Department of Human Rights filed a complaint on behalf of Complainant, Ronald James. That complaint alleged that Respondent, City of Chicago, Department of Business and Information Services, discriminated against Complainant on the bases of his race and age when it discharged him.

A public hearing was held on the allegations of the complaint on June 22, 2004. At the close of Complainant's case in chief, Respondent moved for a directed finding in its favor. The ruling at the time was that the motion likely would be granted. Nonetheless, the parties were given the opportunity to brief the issues. Pursuant to that ruling, Respondent filed a posthearing brief. Complainant did not file a posthearing brief, and the time for filing such a brief has passed. The matter is ready for decision.

FINDINGS OF FACT

Facts numbers one through four are facts that were stipulated by the parties or admitted in the answer to the complaint. The remaining facts were determined to have been proven by a preponderance of the evidence at the public hearing in this matter. Assertions made at the public hearing that are not addressed herein were determined to be unproven or were determined to be immaterial to this decision.

1. On July 1, 1998, Respondent, City of Chicago, Department of Business and Information Services, hired Complainant, Ronald James.
2. Complainant's position with Respondent was Director of Finance.
3. Complainant is black.
4. When Respondent discharged Complainant, he was forty-one years old.
5. Respondent discharged Complainant in June or July of 1999.
6. At the public hearing in this matter, Complainant did not introduce any evidence on similarly situated younger employees or employees of a different race.

CONCLUSIONS OF LAW

1. Complainant is an "aggrieved party" as defined by section 1-103(B) of the Illinois Human Rights Act, 775 ILCS 5/1-101 *et seq.* (hereinafter "the Act").
2. Respondent is an "employer" as defined by section 2-101(B)(1)(c) of the Act and is subject to the provisions of the Act.
3. Complainant did not establish a *prima facie* case of discrimination against him on the basis of his race.
4. Complainant did not establish a *prima facie* case of discrimination against him on the basis of his age.
5. A directed finding in Respondent's favor is appropriate in this case.

DISCUSSION

On July 1, 1998, Respondent, City of Chicago, Department of Business and Information Services, hired Complainant, Ronald James. Complainant's position was Director of Finance, but he did not last long in that position. Respondent discharged him in June or July of 1999.

Subsequently, Complainant filed a charge of discrimination against Respondent. That charge alleged that Respondent discharged Complainant because of his race and age. Complainant is black and, at the time of his discharge, was forty-one years old.

The method of proving a charge of discrimination is well established. First, Complainant must establish a *prima facie* case of discrimination. If he does so, Respondent must articulate a legitimate, non-discriminatory reason for its actions. Once such a reason is articulated, for Complainant to prevail, he must prove that Respondent's articulated reason is pretextual. ***Zaderaka v. Human Rights Commission***, 131 Ill. 2d 172, 545 N.E.2d 684 (1989). See also ***Texas Dep't of Community Affairs v. Burdine***, 450 U.S. 251 (1981).

To establish a *prima facie* case of race discrimination, Complainant had to establish four elements. He had to prove 1) that he is in a protected class, 2) that he was meeting Respondent's reasonable performance expectations, 3) that he was discharged, and 4) that similarly situated persons outside his protected class were treated more favorably, in that someone outside his protected class replaced him or that those outside his protected class were retained while he was discharged. ***Sheffield and Wilson Sporting Goods Co.***, ___ Ill. HRC Rep. ___, (1990CF1450, May 7, 1993). His *prima facie* case of age discrimination was virtually identical. To make that case, he had to prove 1) that he is a member of the protected age class, 2) that he was meeting Respondent's reasonable performance expectations, 3) that he was discharged, and 4) that similarly situated younger employees were treated more favorably. ***Southern Illinois Clinic, Ltd. v. Human Rights Commission***, 274 Ill. App. 3d 840, 654 N.E.2d 655 (5th Dist. 1995).

There was no dispute that Complainant established the first and third elements of both *prima facie* cases. Clearly, he was in protected classes for both age and race and he was discharged. There is a dispute over whether Complainant established his second element. However, there is no need to resolve that dispute because it is clear that he did not establish the fourth element. Complainant presented no evidence whatsoever to address the treatment of similarly situated younger employees or employees of a different race. Without such evidence, it is impossible to conclude that his treatment was due to prohibited factors.

The failure to provide evidence on younger employees or employees of a different race means that Complainant did not establish his *prima facie* case. When a complainant fails to establish a *prima facie* case, it is appropriate to grant a motion for directed finding in favor of the respondent. ***Kestler and Air Distribution Associates, Inc.***, ___ Ill. HRC Rep. ___, (1990CF2757, March 30, 1993). In this case, a directed finding in Respondent's favor is appropriate.

RECOMMENDATION

Based upon the foregoing, Complainant failed to establish a *prima facie* case of discrimination against him on the basis of his age or his race. Accordingly, it is recommended that the complaint in this matter be dismissed with prejudice.

HUMAN RIGHTS COMMISSION

BY: _____
MICHAEL J. EVANS
ADMINISTRATIVE LAW JUDGE
ADMINISTRATIVE LAW SECTION

ENTERED: February 24, 2005